

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

**Plaintiff,**

**v.**

2009 TOYOTA LAND CRUISER,  
VIN: JTMHY05J795004284,

**Defendant.**

CIVIL NO. 18-

**VERIFIED COMPLAINT FOR FORFEITURE IN REM**

TO THE HONORABLE COURT:

COMES NOW, plaintiff, the United States of America, by and through its undersigned attorneys, Rosa Emilia Rodríguez-Vélez, United States Attorney for the District of Puerto Rico; Héctor E. Ramírez-Carbó, Assistant United States Attorney, Chief Civil Division, and Rafael J. López-Rivera, Assistant U.S. Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

**NATURE OF THE ACTION**

1. This is a civil action in rem brought to enforce the provisions of Title 21, United States Code, Sections 841, 846, and 881.

**DEFENDANT IN REM**

2. The defendant vehicle seized by Special Agent of the Federal Bureau of Investigation (“FBI”) consists of 2009 TOYOTA LAND CRUISER, VIN: JTMHY05J795004284.

### JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over an action commenced by the United States pursuant to Title 28 United States Code, Section 1345; over an action for forfeiture pursuant to Title 28, United States Code, Section 1355; and over this particular action pursuant to Title 21, United States Code, Sections 841, 846, and 881.
4. This Court has in rem jurisdiction over the defendant vehicle pursuant to Title 28, United States Code, Section 1355(b)(1)(A) (acts and omissions giving rise to the forfeiture occurred in this district) and Section 1355(b)(1)(B) (the defendant vehicle is found in this district).
5. Venue is proper in this district pursuant to Title 28, United States Code, Section 1355(b)(1)(A) (acts and omissions giving rise to the forfeiture occurred in this district) and Section 1395 (the defendant vehicle is found in this district).

### BASIS FOR FORFEITURE

6. This is a civil action in rem brought to enforce the provisions of Title 21, United States Code, Section 841 (Unlawful acts), 846 (Attempt and conspiracy) and 881(a)(4) of Title 21, United States Code, particularly the all conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9), of this subchapter.

### FACTS

7. The facts and circumstances supporting the seizure and forfeiture of the defendant vehicle are contained in the Title 28, United States Code, Section 1746 unsworn declaration of the FBI, Special Agent, Trent N. Ervin attached hereto, and incorporated herein as if fully

stated.

CLAIM FOR RELIEF

WHEREFORE, the United States of America prays that a warrant of arrest for the defendant vehicle be issued; that due notice be given to all parties to appear and show cause why the forfeiture should not be decreed; that judgment be entered declaring the defendant vehicle condemned and forfeited to the United States of America for disposition according to law; and that the United States of America be granted such other and further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

RESPECTFULLY SUBMITTED,

In San Juan, Puerto Rico, this 30<sup>th</sup> day of May, 2018.

ROSA EMILIA RODRIGUEZ-VELEZ  
United States Attorney

/s/ Héctor E. Ramírez-Carbó

Héctor E. Ramírez-Carbó  
Assistant U.S. Attorney  
Chief Civil Division  
USDC-PR-NO. 214902  
UNITED STATES ATTORNEY'S OFFICE  
Torre Chardón, Suite 1201  
350 Carlos Chardón Street  
San Juan, Puerto Rico 00918  
Phone Number: (787)766-5656  
Hector.E.Ramirez@usdoj.gov

/s/ Rafael J. López-Rivera

Rafael J. López-Rivera  
Assistant United States Attorney  
USDC-PR No. 221213  
UNITED STATES ATTORNEY'S OFFICE  
Torre Chardón, Suite 1201  
350 Carlos Chardón Street  
San Juan, Puerto Rico 00918  
Phone Number: (787) 766-5656  
Rafael.j.lopez@usdoj.gov

VERIFIED DECLARATION

I, Rafael J. López-Rivera, Assistant U.S. Attorney, for the District of Puerto Rico, declare under penalty of perjury as provided by Title 28, United States Code, Section 1746, the following:

That the foregoing Complaint is based on reports and information furnished to me by the Federal Bureau of Investigation ("FBI"); that everything contained therein is true and correct to the best of my knowledge and belief.

Executed in San Juan, Puerto Rico, this 30<sup>th</sup> day of May, 2018.

S/Rafael J. López-Rivera

Rafael J. López-Rivera  
Assistant U.S. Attorney

VERIFIED DECLARATION

I, Trent N. Ervin, Special Agent, FBI, declare as provided by Title 28, United States Code, Section 1746, the following:

I have read the contents of the foregoing Complaint for Forfeiture in Rem and the attached unsworn declaration thereto, and I find the same to be true and correct to the best of my knowledge and belief. I declare under penalty of perjury that the foregoing is true and correct.

Executed in San Juan, Puerto Rico, this 30 day of May, 2018.

Trent N. Ervin

Trent N. Ervin, Special Agent,  
Federal Bureau of Investigation ("FBI")

**UNSWORN DECLARATION**  
**IN SUPPORT OF FORFEITURE COMPLAINT**

**INTRODUCTION**

I, Trent N. Ervin, do hereby state the following:

Pursuant to Title 28, United States Code, Section 1746, I, Trent N. Ervin, Special Agent of the Federal Bureau of Investigation ("FBI"), declare under penalty of perjury that the foregoing is true and correct:

I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since May of 2016. As such, I am a law enforcement officer of the United States of America within the meaning of Section 2510 (7) of the Title 18, United States Code, that is, an officer of the United States who is empowered by the law to conduct investigations of and to make arrests for, the offenses enumerated in Title 21, United States Code, Section 841 (Controlled substances). As an FBI Special Agent I have received extensive training in the investigation of violations of federal and state law. I have been trained in numerous investigative methods that involved personally obtaining and assisting in the execution of federal search warrants, arrests, and filing criminal complaints. During my employment with the FBI, I have participated in federal criminal investigations along with experienced FBI Special Agents (SAs) and other Task Force Officers (TFOs). I am currently assigned to the San Juan Division Criminal Enterprise Squad 3, which is responsible for the investigation of offenses including drug trafficking organizations.

I have also received training, and assisted in the conduct of investigations concerning the unlawful possession and distribution of controlled substances; the laundering and concealment of drug proceeds; and the illegal use of communication facilities by drug traffickers in furtherance of their criminal activities.

This Unsworn Declaration is submitted in support of a verified complaint of forfeiture, which involves the offenses detailed in Section 841(a)(1), 846 and 881(a)(4) of Title 21, United States Code, particularly the all conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9), of this subchapter. Therefore, I have not set forth each and every fact learned during the course of this investigation.

**PROPERTY TO BE FORFEITED**

2009 Toyota Land Cruiser,  
VIN: JTMHY05J795004284

**BASIS FOR FACTS CONTAINED IN THIS UNSWORN DECLARATION**

The information in this affidavit is based upon my personal knowledge, as well as on information that I have received from witnesses and other law enforcement sources. Because this affidavit is made for the limited purpose of establishing probable cause for the complaint, I have not recited each and every fact known to me as a result of the investigation. As a result of my participation in this investigation, conversations and reports made by other SAs, Police of Puerto Rico (POPR) Officers, witnesses and other concerned parties; I am familiar with the circumstances of the offenses described in this affidavit. Based on this familiarity, I allege that the facts show that:

1. Pursuant to an arrest warrant signed by Magistrate Judge Marcos E. Lopez, of the District of Puerto Rico, Special Agents of the Federal Bureau of Investigation located and arrested Jose Antonio Martinez Diaz (MARTINEZ-DIAZ) at Barrio Colinas de Cambalache, Carr 962, km 4.0, Canovanas, PR 00729 on February 21, 2018.
2. Beginning on a date unknown, but no later than in or about May 2017, and continuing up to in or about January 2018, in the District of Puerto Rico, MARTINEZ-DIAZ did knowingly and intentionally, combine, conspire, and agree with other persons, to commit an offense against the United States, that is, to knowingly and intentionally possess with intent to distribute and to distribute controlled substances, to wit: five kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II, Narcotic Drug Controlled Substance, in violation of 21 U.S.C. § 846.
3. In May 2017, MARTINEZ-DIAZ met with CHS-1 to discuss drug trafficking ventures. During the meeting, MARTINEZ-DIAZ agreed to sell CHS-1 1 kilogram of cocaine but would have to wait until the load came in. MARTINEZ-DIAZ stated that the load would be delivered within a two week period and once the load came in, MARTINEZ-DIAZ would contact CHS-1 to conduct the transaction.
4. On December 17, 2017, MARTINEZ-DIAZ met with CHS-1 and CHS-2 to discuss drug trafficking ventures. MARTINEZ-DIAZ told CHS-1 that he would be receiving a shipment of 50 kilograms of cocaine and would be willing to sell 1 kilogram of cocaine to CHS-2 once the shipment arrived. In addition, MARTINEZ-DIAZ stated to CHS-1 and CHS-2 that the shipment of 500 kilograms, of which 50 belonged to him, would be arriving sometime on or after the 26th of December, in Fajardo, Puerto Rico.

MARTINEZ-DIAZ stated that the load belonged to the men that worked at “Dos Marina” but did not give an exact location as to where the load would be received in Fajardo.

5. MARTINEZ-DIAZ was seen by surveillance driving the 2009 Toyota Land Cruiser the night the meeting took place. MARTINEZ-DIAZ arrived and departed in the aforementioned vehicle. During the meeting with CHS-1 and CHS-2, MARTINEZ-DIAZ stated that there were pallets full of pre-cursor chemicals located at his farm in Canovanas, Puerto Rico that he used to cut the kilograms of cocaine before shipping them to the Continental United States. MARTINEZ-DIAZ also stated that he would receive 25 “caperazones” a week and would be receiving 25 the week of the 17th. According to CHS-2, “caperazones” is a reference to smaller amounts of cocaine smuggled in utilizing “mules” or people flying in from South America.
6. During a search warrant of MARTINEZ-DIAZ house, subsequent to a Federal arrest warrant issued in Puerto Rico following a Federal Grand Jury indictment, a search of the 2009 Toyota Land Cruiser was conducted after a narcotics detection canine from Customs and Border Protection marked the vehicle for possible narcotics. Upon further inspection of the vehicle, the narcotics detection canine marked the center console of the vehicle for possible narcotics. No narcotics were found during the search.
7. Puerto Rico Transportation Department (DTOP) records shows that the registered owner of the 2009 Toyota Land Cruiser, license plate HSB 701, is Marilyn Pagan-Melendez. The address shown on DTOP records shows her residence to be located in Bo. Cambalache Carr. 942 km 4.0, Canovanas, PR, MARTINEZ-DIAZ house and where the search warrant was conducted. The registration date of the Toyota Land Cruiser in favor of PAGAN-MELENDEZ was on December 15, 2015.



8. MARTINEZ-DIAZ and PAGAN-MELENDZ are a couple and in the course of their relationship, they are the parents of two children.
9. Puerto Rico Treasury Department records revealed PAGAN-MELENDZ did not file tax returns and did not receive a W-2 or Informative Declaration of Professional Services between 2008 and the present date. Based on these circumstances, it is unlikely that PAGAN-MELENDZ could have generated enough income to buy and pay for a 2009 Toyota Land Cruiser.
10. On February 15, 2018, a Federal Grand Jury sitting in the District of Puerto Rico, returned an Indictment against the defendant José A. Martinez-Diaz, charging that defendant committed violations of Title 21, United States Code, Section 841(a)(1) and 846. See Criminal No. 18-100 (DRD). Forfeiture allegations were included in the Indictment pursuant to Title 21, United States Code, Section 853. It was stated that upon conviction of the offense set forth in Count One of the Indictment, the defendant José A. Martinez-Diaz would forfeit to the United States, any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of said violation and any property used, or intended to be used, in any manner or part, to commit, or facilitate the commission of the violation.

**Conclusion**

Based upon my training and experience, participation in other investigations, and facts concerning this investigation, I believe that sufficient probable cause exists to show that there is present material evidence of a commission of a violation of a Federal Law to wit: drug traffickers illicit drug proceeds demonstrates probable cause to forfeit the 2009 Toyota Land Cruiser, violations of Title 21, United States Code, Sections 841(a) (1) and 881(a) (4).

A handwritten signature in black ink, appearing to read "Trent N Ervin", written over a horizontal line.

Trent N Ervin, Special Agent  
Federal Bureau of Investigation

May 30, 2018

JS 44 (Rev. 11/04)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Rafael J. López-Rivera, AUSA, 350 Carlos Chardon Ave, Suite 1201, Hato Rey, PR 00918

**DEFENDANTS**

2009 TOYOTA LAND CRUISER,  
VIN: JTMHY05J795004284,

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                            |   |                            |                            |
|---|---------------------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                                   | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input checked="" type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 21, USC, Sections 841, 846, and 881.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

05/30/2018

SIGNATURE OF ATTORNEY OF RECORD

s/Rafael J. López-Rivera

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE


**United States District Court *for the* District of Puerto Rico**
**CATEGORY SHEET**

1. Title of Case (Name of first party on each side only)

US v. 2009 TOYOTA LAND CRUISER, VIN: JTMHY05J795004284,

2. Category in which case belongs: (See Local Rules)

☒ X

ORDINARY CIVIL CASE  
SOCIAL SECURITY  
BANK CASE  
INJUNCTION

CIVIL FORFEITURE

3. Title and number, if any, of related cases (See Local Rules)

4. Has a prior action between the same parties and based on the same claim ever been filed in this Court?

☐ YES

☒ X NO

5. Is this case required to be heard and determined by a District Court of three judges pursuant to Rule 28 U.S.C. 2284?

☐ YES

☒ X NO

6. Does this case question the constitutionality of a state statute (FRCP 24)?

☐ YES

☒ NO

(Please Print)

USDC ATTORNEY'S ID NO.

221213

ATTORNEY'S NAME:

Rafael J. López-Rivera

MAILING ADDRESS:

TORRE CHARDON, SUITE 1201, 350 CARLOS CHARDON AVE

HATO REY PR

ZIP CODE

00918

TELEPHONE NO.

787-766-5656